



Supreme Court of the United States

OCTOBER TERM, 1945

No. 622

MATTIE BRADEY, as Administratrix of the Estate of
Marion Thomas Bradey, deceased,

Petitioner,

against

UNITED STATES OF AMERICA, as represented by War
Shipping Administration,

Respondent.

SECOND PETITION FOR REHEARING

Statement of Facts

MARION THOMAS BRADEY was one of the naval personnel on the destroyer "Parrott" which met in collision with the merchant vessel "John Morton" in the port of Norfolk, Virginia. Bradey was killed.

His administratrix brought suit against the United States of America, under the Suits in Admiralty Act, because the merchant vessel "John Morton" was owned and operated by the United States of America.

On exceptions to the libel the United States Circuit Court of Appeals for the Second Circuit held that there

was no right of action in this administratrix because the deceased, having been a naval employee of the government which provided a pension, that he had no right of action against the government as the owner of the offending vessel because such an action would be against the public policy of the United States, and also was unauthorized by any law.

Bradey v. United States, 151 Fed. (2d) 742.

Petition for certiorari was presented to this court and denied.

Since that denial the United States Circuit Court of Appeals for the Fourth Circuit in the case of *United States v. Marine*, decided by the Fourth Circuit on May 11th, 1946, as yet unreported, but which affirmed the case of *Marine v. United States*, 1946 A. M. C. 53, held that a government employee could sue the government for damages arising out of a *tort*. Copy of that decision is appended hereto.

This decision of the Fourth Circuit is contrary to the decision of the Second Circuit and this conflict should be settled by a decision of this court.

Reference is respectfully made to the Petition for Certiorari heretofore filed herein.

Movant shows that the question involved is highly important not only to the United States, but to all of its employees, both military and civilian, who may suffer injury or damage by reason of negligent action or unseaworthy conditions for which the United States would be civilly responsible were the injured party not an employee.

WHEREFORE movant prays a reconsideration of her Petition for Certiorari, and that she be granted a Second Rehearing because of the existing conflict between two Circuit Courts of Appeal.

Dated: New York, N. Y., May 29th, 1946.

Respectfully submitted,

SIMONE N. GAZAN,
Attorney for Movant.